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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 355th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 January 1997, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Panama (continued) (HRI/CORE.1/Add.14/Rev.1; CRC/C/8/Add.28; CRC/C/Q/PAN.1)

1. At the invitation of the Chairperson, the Panamanian delegation resumed its place at the Committee table.

2. Mrs. GRAHAM DE SAMPSON (Panama), referring to the family environment and alternative care, said she wished to point out first that, according to the 1990 census, 20 per cent of the women in her country were heads of family. The average Panamanian family consisted of 4.4 people. Thanks to the National Council on the Family and Children and an information and documentation centre set up under the Family Code, it would no doubt be possible to carry out a better statistical evaluation of the situation of families. Article 377 of the Family Code recognized rights to allowances, including the right to maternity benefit. Article 609 stipulated that the number of children should be taken into consideration in calculating income tax and articles 611 and 612 indicated the public and private bodies that could provide help to families in need.

3. As far as the conformity of Panamanian legislation with the Convention was concerned, it should be noted that articles 316-319 of the Family Code conferred parental authority on both parents and laid down the rights and duties of parents towards their children, as well as the obligations of children towards their parents, with due regard for the best interests of the child. Furthermore, in order to give effect to the provisions of article 59 of the Constitution, which provided for the protection of the family, article 574 of the Family Code specified a number of institutional and practical measures aimed at assisting priority groups in the population. Articles 670 and 671 also contained provisions concerning family education and in particular sex education.

4. With regard to international adoption, Panama was planning to ratify the 1993 Hague Convention, for since the entry into force in 1994 of new legislation on the family, there was no longer any conflict between the provisions of the Civil Code and those of the Convention. Efforts were also made to combat trafficking in children for purposes of adoption and there were no adoption agencies in Panama. The authorities saw to it that candidates for international adoption met all the conditions required in their country of origin.

5. Lastly, article 502 of the Family Code made it compulsory to denounce instances of maltreatment. Article 503 provided for the immediate custody of the child victim in such cases; whereas the measures required in the longer term were set forth in article 504. Act No. 27 of June 1995 established penalties for the offences of violence within the family and the maltreatment of children and provided that the relevant articles of the Criminal Code and Judicial Code should be aligned accordingly. Moreover, the Act laid down a

penalty of one to six years' imprisonment for a person maltreating a child, while any official who failed to report a case of maltreatment to the authorities was liable to a fine of 50 to 160 days.

6. Mrs. BADRAN said she was surprised that the concepts of respect and obedience in child-parent relations were the subject of legislative provisions in the State party. For in her view any loving and affectionate relationship should imply respect. Moreover, one should not destroy children's creativity nor hinder self-expression in the name of obedience. Was it really in the best interests of children to require them to obey their parents?

7. She would also like to know whether the child-care facilities available to working mothers were free of charge and how the staff employed there were trained. Lastly, she had noted that according to the Civil Code persons who had committed an offence could be apprehended by any individual and handed over to the authorities. She would like to know to what types of offence that provision applied.

8. Mr. HAMMARBERG observed that procedures existed and measures were provided for combating domestic violence. He would like the delegation to clarify, however, whether the legislative provisions prohibiting all forms of maltreatment also applied to domestic violence and whether they were reserved for grave forms of violence, as in certain States parties. How were the trends towards domestic violence assessed and what measures were taken to encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, as prescribed in article 17 (e) of the Convention?

9. Mrs. KARP wondered, like Mrs. Badran, about how to strike a balance between the principle of children obeying their parents on the one hand, and the new concept of children's rights on the other hand. She would also like to know whether the family education programmes mentioned by the delegation were carried out systematically by the authorities or organized when required with the assistance of NGOs. She also welcomed the fact that the Panamanian authorities recognized the problem of domestic violence. However, was there a special help service for the victims and what measures were taken to assist the victims of sexual abuse within the family in explaining what had happened to them and testifying before the courts? Did law-enforcement officials receive special training to deal with such cases? How many parents had been tried and sentenced for violence against their children and how was the problem viewed by the public at large?

10. Mrs. SANTOS PAIS recalled that two years previously the Committee had considered the question of the age of marriage. Perhaps the Secretariat might provide the delegation with information on the subject, with a view to the abolition in the State party of any differentiation between boys and girls in such matters.

11. Moreover, the notion of the best interests of the child must be taken into consideration as a matter of routine, and not only in exceptional cases or when there was abuse. In the case of adoption, too, the principle should be applied in general, and not only when the adopted child's name had to be changed, as had been mentioned the previous day. Still on the subject of

adoption, she wondered to what extent the clauses of Panamanian legislation providing for the amendment of civil status records in the event of adoption were compatible with article 7 of the Convention, which stipulated that the child had the right to know his or her parents. In certain countries, for instance, such information was confidential, but the children concerned had access to it upon reaching the age of majority.

12. As far as fundamental freedoms were concerned, she regarded the existence of an overall constitutional legislative framework as useful, so long as that framework was accompanied by legislation that contained more specific provisions on the child: by way of example, with regard to freedom of association, the law must specify the conditions in which children could set up associations. As for freedom of religion, she had noted that parents could decide not to send their children to catechism lessons run by schools; however, she would like to know as of what age children were free to decide to stop going to the catechism classes that parents had obliged them to attend.

13. With regard to the child-parent relationship, the State party's report and replies portrayed a somewhat conservative situation. Aside from the obligation on the child under article 317 of the Family Code to obey and respect his parents, perhaps some happy medium could be found between parental authority and the rights of the child. Had the Panamanian authorities given thought to the problem from that perspective and was there anything in the law that might bring some change in the situation? For it seemed that the provisions of the Family Code relating to maltreatment and violence within the family were basically of a repressive nature, and that the State party might be able to do more in the way of prevention, for example by prohibiting corporal punishment, which was not compatible with article 19 of the Convention.

14. Mrs. SARDENBERG said that she would pick up on the questions put by other Committee members concerning the respect for a child's right to privacy and the necessary balance in the child-parent relationship. On the subject of domestic violence, she would like to know whether the State party had ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. Moreover, at the institutional level, what was the general attitude of the police force towards young people? Was the 9 p.m. curfew for children still applied? Could the delegation indicate whether investigations were undertaken in the event of a breach of that curfew?

15. On the question of the fight against poverty, she would like to know about specific programmes to help the most deprived families and how such programmes were evaluated. What assistance was given to families as regards education and was provision made for special aid to single-parent families?

16. Miss MASON said she wished to make some remarks about the situation of refugee children and the problem of family reunification, as referred to in article 10 of the Convention. For she noted that according to paragraph 190 of the report there was a National Office for Refugees in Panama, which allowed refugee children to enjoy some of the rights recognized in the Convention. She noted, too, that persons seeking refugee status for the purposes of family reunification must prove to the authorities that they could support their family. What of children who could not take care of their

parents? To what extent were the provisions in question compatible with article 17 of the Panamanian Constitution, which dealt with the protection of individuals? Could one really consider that Panamanian and refugee children had equal rights with regard to education where the latter, for instance, had to procure their own school supplies? In short, what concrete measures were taken to guarantee the rights of refugee children under both the Panamanian Constitution and the Convention?

17. Regarding sexual abuse within the family, she would like to know about incest in Panama. What structures or services were there for the victims and perpetrators of incest? Was there any additional "victimization" through the separation of the child from his family? What was the attitude of law-enforcement officials towards the phenomenon and what specific training were they given? Lastly, was the special police force for children bound to take action on such problems?

18. Mrs. EUFEMIO asked whether a single person could adopt a child and, if so, what measures were taken to ensure that the child would not be adopted by a person with paedophile tendencies, given that according to article 174 of the Civil Code, the adopted child must be of the same sex as the adoptive parent. She also wondered whether there might not be some conflict between article 187 of the Civil Code, which stipulated that it was the father that exercised parental authority, and article 18 of the Convention, whereby both parents shared responsibility for the upbringing of their child.

19. Mr. KOLOSOV observed that according to paragraph 65 of the report all Panamanians over 18 years of age were citizens of the Republic. He asked about the situation of children under the age of 18 with regard to nationality.

20. Mrs. AROSEN DE TROITIÑO (Panama) said that the obligation upon children to obey their parents laid down in the Family Code did not mean that parental authority was limitless, for according to the Code parents were obliged to see to the well-being of their children and to treat them with respect. Moreover, the competent authorities saw to it that parents did not abuse the powers conferred on them and fulfilled their duties towards their children.

21. As far as marriage was concerned, it was worth noting that girls between 14 and 18 years of age and boys between 16 and 18 years of age could not contract a marriage without their parents' consent. In that connection the Panamanian delegation would like the Committee to provide it with documents explaining the reasons why the minimum age for marriage should be the same for boys as for girls.

22. Regarding "schools for parents", there was a department in the Ministry of Education which had special responsibility for promoting the activities offered in that connection. Moreover, a national NGO, supported by the World Association for the School as an Instrument of Peace, was carrying out an education programme for parents under which children took part in a daily radio programme. Furthermore, whenever a national or international conference concerning children was organized in Panama, children were invited to make statements, as for example in September 1996 during the ninth world congress on family law.

23. As for adoption, unsuccessful efforts had been made to rescind the provision requiring the adoptive child to be of the same sex as the adoptive parent. That failure was attributable to the fact that Panamanian legislation had long been dominated by Roman law and the Code Napoléon. However, the adoptive parent was rarely single: only two cases had been recorded in 1996. In any case, all adoptive parents, whether couples or single persons, were very thoroughly screened before being given custody of a child. Moreover, paedophilia was not a problem in Panama.

24. The adoptive child had the right to know the identity of his or her natural parents, which was recorded in the civil status register. However, by law it was for the adoptive parents to decide when was the appropriate moment to inform the child of his or her true origin.

25. With regard to citizenship, article 125 of the Constitution stated that one must be over the age of 18 to have the right to vote, to stand as a candidate at elections, and to be vested with legal and contractual capacity. Young persons under the age of 18 could of course exercise all the other rights set forth in the Constitution, and, in particular, had the right to participate in family, school, social and cultural life, as well as the right to be heard and to exercise their fundamental freedoms, inter alia, in youth associations. In that regard, there was a department of the Ministry of Education specifically responsible for student affairs. Its tasks included encouraging the establishment of student associations and assisting them in organizational matters and in editing a newspaper in which they could express their views.

26. With regard to refugees, in 1995 Panama had recorded only two cases of unaccompanied child refugees. In 1996 a group of Colombian families fleeing the guerrilla war had taken refuge in Panama, but had been swiftly resettled in another region of Colombia following cooperation between the Panamanian and Colombian authorities. It could thus be said that there was no refugee problem in Panama. However, even if such a problem had existed, refugee children would certainly not be obliged, in the event of family reunification, to prove that they were able to support their parents.

27. Mrs. GRAHAM DE SAMPSON (Panama) said that the Labour Code obliged enterprises to establish day-care centres for their employees' children of pre-school age. The Minister of Labour and Social Welfare was also implementing a programme to set up nurseries in which children of working parents were looked after by qualified staff. Furthermore, the State ensured that refugee children - who were very few in number - received normal schooling.

28. The law defined ill-treatment as any act or omission likely to harm the child's physical or mental health. The Ministry of Education had publicized that provision widely, stressing the need to distinguish between punishments and ill-treatment, the latter being reprehensible, however slight. At the legal level, the juvenile judge could if necessary separate children subjected to ill-treatment from their families and place them in a foster home, or else in a residence where they would be looked after by qualified staff. Thanks to the campaigns by governmental organizations and NGOs to raise public awareness of ill-treatment of children, people no longer hesitated to report the

perpetrators of such acts. For that purpose, free telephone hot lines had been made available to the public by the National Council for the Family and Minors and by several NGOs.

29. The law also provided for sanctions against those media broadcasting programmes contrary to morals or constituting an incitement to commit violence or other offences. Incest was a criminal offence. Persons committing such acts were liable to imprisonment and child victims could be separated from the parent committing the offence. However, her delegation had no statistics on the matter.

30. She confirmed that Panama had indeed ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. With regard to the age from which children could choose their religion, she said that the Family Code authorized children to voice their opinions from the age of 7 in certain legal areas and that, in the absence of specific provisions, one could assume that it was from that age that children could express their choice in religious matters.

31. Mrs. KARP asked whether the principles of the Convention were disseminated and dialogue between children and parents encouraged in the framework of the "school for parents". Furthermore, was there any way a child who was the victim of incest or other forms of domestic violence could be protected in court when making his or her statement? Finally, she wondered whether there were hostels for battered women in Panama.

32. Mr. KOLOSOV asked what distinction the Panamanian authorities made between nationals and citizens. Recalling that article 7 of the Convention set forth a child's right to acquire a nationality, he asked how nationality could be acquired in Panama.

33. Mr. HAMMARBERG, referring to the previously mentioned articles 500 and 501 of the Family Code, asked for clarification as to what exactly was meant by ill-treatment on the one hand and correction on the other. He hoped that no kind of ill-treatment was tolerated under the guise of general punishment. Furthermore, how did the authorities monitor the effective implementation of article 485 of the Family Code and was the impact of the provisions evaluated?

34. The situation of child refugees was perhaps not as clear-cut as the delegation had described. Even if there were only a few child refugees, it was absolutely essential to set up special procedures to guarantee that they had legal representation when they were in the process of applying for the status of refugee or asylum-seeker. He was alarmed at the report of the Office of the United Nations High Commissioner for Refugees (UNHCR) that a group of Colombian refugees had been sent back to their country, in defiance of all existing international agreements on the protection of refugees and without consulting UNHCR or the persons concerned in any way. Finally, he asked whether, in the framework of the policy of family reunification, there were any specific provisions allowing children to bring a member of their family to Panama and relieving them of the obligation to guarantee financial support for the relative.

35. Mrs. AROSENA DE TROITIÑO (Panama) said that every child born on Panamanian territory or of Panamanian parents acquired Panamanian nationality at birth, according to the principles of jus soli and jus sanguinis. A foreign child, if adopted before the age of 7, also automatically acquired Panamanian nationality. The term "citizenship" referred to the exercise of civil and political rights from the age of 18.

36. With regard to the previously mentioned case of the Colombian refugees, it should be noted that the Church had acted as mediator, which could explain why UNHCR had not been consulted. The Panamanian delegation, which shared the Committee's concern, promised to check that statutory procedures had been respected.

37. Through the Ministry of Labour and Social Welfare, the authorities granted work permits to foreigners who went to Panama to be with their family so as to enable them to support themselves as quickly as possible. Finally, sexually abused children who had to testify in court enjoyed special protection. Police officers, investigators, and members of the legal profession were given special training to help them deal with such cases in the best possible conditions. Furthermore, children did not have to testify except when absolutely necessary.

38. Mrs. GRAHAM DE SAMPSON (Panama), replying to another series of questions, said that there were indeed hostels that took in battered women and their children. Some of them were run by NGOs and others were the result of Government initiatives. There was a difference between the concept of correction and that of ill-treatment, be it physical or mental, which was made clear in the Family Code. Information campaigns had been launched in the media, in agreement with various ministries, to raise awareness among the public and various categories of staff working with children of the problem of the ill-treatment of children.

39. Turning back to the list of issues (CRC/C/Q/PAN.1), she pointed out that measures had indeed been taken to broaden the mandate of Community Health Promoters and allow them to work directly with the families of disabled children (issue 34). A National Council for Handicapped Children had been set up and brought together representatives of governmental bodies, NGOs and organizations for disabled people. The Council was part of a Regional Council for Disabled Children which included representatives of Central American countries who drafted policies, laws and strategies for disabled children. The rehabilitation centres for disabled people, which worked closely with the Ministry of Health, provided services for disabled children at the community level. Several NGOs were also working in that field.

40. The Child Health Programme (issue 37) aimed to improve the health of children from birth until the age of 5. In 1995, the demographic pyramid diagram for Panama had displayed the broad base characteristic of developing countries, with children under 15 years of age accounting for 33.5 per cent of the total population. Data from the Department of Health and Medical Statistics of the Ministry of Health relating to

services provided for children under 5 years of age showed that there was a 94.7 per cent success rate in terms of target growth for children under 1 year of age, a 40.6 per cent success rate for children between 1 and 4 years of age and a 22.3 per cent success rate for children between the ages of 5 and 14. The latter category of children accounted for some 22 per cent of the total population of the country and 90 per cent of them were in primary or secondary education.

41. Measures had been taken to ensure that all children had access to proper health care (including care by doctors), particularly in rural areas and among indigenous communities (issue 38). Eighty per cent of the child population had access to health services thanks to a training policy for health workers and the building up of infrastructure, the introduction of a system to ensure that supplies could be delivered to areas that were difficult to reach and that "medical tours" were carried out, and large-scale vaccination campaigns.

42. With regard to illiteracy (issue 42), she said that the Ministry of Education had decided to meet the challenge of the new millennium by encouraging the Government and institutions to work towards improving education. In that spirit, Act No. 34 of 6 July 1995 had been adopted, amending Education Organization Act No. 47 of 1946. According to the most recent census in 1990, there were 189,189 illiterate people aged 10 years and above, amounting to 10.7 per cent of Panama's total population. The Ministry of Education had taken a host of measures pursuant to article 4 (b) and (c) of Act No. 34 to combat illiteracy among women and indigenous people. Between 1990 and 1993, a literacy and vocational training programme had reached 9,643 people. Indigenous alphabets had been compiled to improve indigenous populations' access to basic education, and three new training centres had been set up in 1996. In addition, the United Nations Children's Fund (UNICEF) was providing support for a literacy programme for 980 people, including 450 women.

43. With regard to measures that had been taken to ensure regular school attendance (issue 43), she said that an increase in funds had helped develop the infrastructure needed to ensure a more favourable school environment. New methods had been introduced with regard to reading, writing and arithmetic and were targeted particularly at children in rural and indigenous schools. In addition, the State was subsidizing school canteens and all pupils were given textbooks for their basic education.

44. With regard to the aims of the education system (issue 46) she said that education in Panama had been democratized, and that 75 per cent of children between the ages of 4 and 5, 99 per cent of 6 to 11-year-olds and 90 per cent of children between 12 and 14 years now received schooling. The Government was trying to reduce illiteracy to no more than 3 per cent of the population. A new curriculum for primary and secondary education was being used in all the country's educational centres and a national system to assess the quality of education had been set up. Modern planning and management helped decentralize schools and make them more efficient.

45. Mrs. AROSENA DE TROITIÑO (Panama) said that children deprived of liberty (issue 51) were dealt with under a special court for children. She gave detailed statistics relating to the 1990s concerning the number —

of such children. For example, in 1990, out of 1,824 children and adolescents deprived of liberty, 1,503 (82.4 per cent) had been institutionalized for violating criminal law and 321 (17.6 per cent) for other reasons. In 1996, out of 3,138 children and adolescents deprived of liberty, 2,448 (78.8 per cent) had been institutionalized for violating criminal law and 690 (22 per cent) for other reasons. Statistics were also available on the breakdown of such children and adolescents according to age, up to 17 years (the minimum age for absolute responsibility). The increase in the number of institutionalized children in recent years was attributable to the fact that children below the age of 17 did not have the right to be out on the street after 9 p.m. and were thus taken into shelters for their protection.

46. The minimum age of employment (issue 54) was 14 years under article 66 of the Panamanian Constitution and 15 years under the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138). The Government was looking into the possibility of amending article 66 of the Constitution and the relevant provisions of the Labour Code so as to enable it to accede to the ILO Minimum Age Convention, 1973 (No. 138).

47. With regard to measures to combat the sale and use of drugs by children (issue 55), she said that the national commission responsible for studying and preventing drug-related crimes had been set up under Act No. 23 of 30 December 1986, subsequently amended by Act No. 13 of 27 June 1994. The commission, which was made up of 11 representatives of various ministries, ran a preventive programme and a host of media campaigns. One programme entitled "The Panama Coalition", which had been set up under the auspices of the First Lady of Panama, was also designed to combat the drug problem and young persons' reception centres had been established for that purpose.

48. With regard to child prostitution, she said that the police department dealing with children carried out investigations into the children involved and provided protection for them. An information campaign was under way in Panama, with the support of UNICEF, to assess the scale of the phenomenon.

49. Mrs. KARP asked whether the existence of military bases and a free zone had an impact on child prostitution and whether measures to punish adults who encouraged children under the age of 18 years to engage in to prostitution were provided for, in accordance with the recommendations made at the Congress in Stockholm. She also asked whether abortion was still prohibited, even when pregnancy endangered the health of young girls.

50. Mrs. SANTOS PAIS said she was deeply concerned at the situation of indigenous populations, whose mortality, malnutrition and illiteracy rates were much higher than those of the rest of the population. She also regretted the fact that 80 per cent of children under 14 years of age were involved in domestic or agricultural labour, which violated the right to education set forth in article 32 of the Convention. Finally, with regard to justice for minors, she was surprised that children who had not broken the law could be deprived of liberty. In her opinion, the Government needed to pay greater attention to guaranteeing children's rights.

51. Mr. KOLOSOV asked whether there were alternative options to depriving children of liberty, as provided for in the Convention. He also asked why there were no statistics relating to child offenders between 17 and 18 years of age.

52. Mrs. BADRAN said she hoped that the budget was divided evenly between sectors, particularly in the areas of health and education. She asked whether the increase in the number of private schools was due to the poor quality of State schools and whether there were social workers in schools, particularly to help the children of indigenous populations. Finally, given the high rate of unemployment in the country, she wondered how far it would be possible to end child labour.

The meeting rose at 1.05 p.m.